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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,289	01/12/2001	Kouji Yoshida	201976US2	8626

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/758,289

Applicant(s)

YOSHIDA ET AL.

Examiner

Neveen Abel-Jalil

Art Unit

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 95-108, 112, 115 is/are pending in the application.  
4a) Of the above claim(s) 105-108, 112 and 115 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 95-104 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/5/01.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 17-October-2005 has been entered.
2. The amendment filed on 17-October-2005 has been received and entered. Claims 59-94, 109-11, 113, 114, and 116 have been cancelled. Therefore, claims 95-108, 112, and 115 are now pending.

### ***Claim Objections***

3. Claims 95 and 102 are objected to because of the following informalities:

It is unclear to the Examiner whether the recitation in-between parentheses in claim 95 is considered part of the claim or not since fail(s) to correspond in scope with that which applicant(s) regard as the invention. It fails to show what the meets and bounds of the claim are.

Claim 102 carry the same deficiency and are not given patentable weight.

Appropriate correction is required.

### ***Election/Restrictions***

4. This application contains claims 105-108, 112, and 115 drawn to an invention nonelected with traverse on 5/6/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 95-98, 100-102, and 104 are rejected under 35 U.S.C. 102(b) as being anticipated by Ort et al. (U.S. Patent No. 5,659,626).

As to claims 95, and 102, Ort et al. discloses a data classification apparatus for classifying a group of data which a data storage unit stores into a plurality of sets in accordance with data values, comprising:

a first data dividing unit which estimates N boundary candidates (wherein N is an integer of 2 or more) for a dividing said group of data into a first number of sets on the basis of said data values (See column 24, lines 57-65, wherein “dividing” reads on “filter”); and

a second data dividing unit which is eclectically connected to the first data dividing unit and extracts M boundary candidates (wherein M is smaller than N) and is used to (Intend use recitation and therefore the recitation following does not patentable weight) divide said group of data into a second number of sets smaller than said first number, under a predetermined

extraction condition, on the basis of said N boundary candidate (See column 21, lines 45-56, also see column 19, lines 20-28).

As to claim 96, Ort et al. discloses wherein said predetermined extraction condition includes a condition that said M boundary candidates are extracted on the basis of a magnitude of a data value indicated by each of said N boundary candidates (See column 25, lines 1-15, wherein “magnitude” reads on “number of total features”).

As to claim 97, Ort et al. discloses wherein said predetermined extraction condition includes a condition that a boundary with which said data value is maximized is extracted (See column 25, lines 16-35).

As to claim 98, Ort et al. discloses wherein said group of data are arranged at positions in a predetermined direction, and said predetermined extraction condition includes a condition that said M boundary candidates are extracted on the basis of the respective positions of said N boundary candidates (See column 17, lines 31-45, wherein “positions in a predetermined direction” reads on “location”).

As to claims 100, and 104, Ort et al. discloses wherein N is two, and M is one (See column 18, lines 60-67, wherein “N is two” reads on “two dimensional”, also see column 20, lines 42-45, wherein “M is one” reads on “ratio of 1”).

As to claim 101, Ort et al. discloses wherein said group of data are luminance data of each of pixels obtained by picking up different image patterns in a predetermined image pick-up field (See column 26, lines 39-56).

***Allowable Subject Matter***

7. Claims 99, and 103 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

8. Applicant's arguments with respect to claims 95-108, 112, and 115 have been considered but are moot in view of the new ground(s) of rejection.


In response to applicant's argument with regards to reinstatement of withdrawn claims 105-108, 112, and 115 is acknowledged but not deemed to be persuasive. The restriction was made Final in the Office Action mailed on 5/17/2005.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5: 30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Neeven Abel-Jalil  
January 8, 2006